IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29544 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

MANUBEN VISHNUDAN GADHVI
Versus
STATE OF GUJARAT & ANR

==========

Appearance :
MR MK VAKHARIA for the Petitioners
MR APURVA DAVE, AGP for Respondent:1

==========

CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 27/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the impugned order dated 10.09.2004 passed by Dy.Collector, Stamp Duty

Valuation, Palanpur as well as the orders dated 01.10.2007 and 22.10.2007 passed by the appellate authority rejecting the application/appeal of the petitioner on the ground of limitation. The petitioner also challenges the notice dated 10.10.2007 issued to him from the respondent no.2 i.e. Deputy Collector, Stamp Duty Valuation, Palanpur. Heard the learned advocate for the petitioner and Mr Apurva Dave, learned AGP for the respondent No.2.

2. It is submitted by the learned advocate for the petitioner that without giving any details regarding determination of stamp duty, in printed form, order was passed by the Deputy Collector, Stamp Duty Valuation, Palanpur in a casual manner. It is submitted by him that after taking into consideration certain principles regarding determining the stamp value used in agreement, he has passed the impugned order on the basis of which the respondent No.2 has ordered the petitioner to pay deficit Stamp Duty of Rs.5,90,000/- and fine of Rs.10,000/- as was required to be paid to the authorities. A Notice was sent to to the petitioner on 10.10.2007 by the

Deputy Collector asking the petitioner to pay an amount of Rs.6,00,000/- towards the deficit stamp value including the fine of Rs.10,000/- within stipulated time period. Therefore, it is prayed that the orders passed by the respondent authorities are required to be quashed and set aside.

3. In support of his submission, the Learned advocate for the petitioner has placed reliance on the following decisions of this court:

1. 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat
2. 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the

order in question was quashed and set aside by the court in the aforesaid decision.

4. The respondent Collector has passed final order on 10.9.2004. The Appeal of the petitioner was rejected by the appellate authority vide impugned orders dated 01.10.2007 and 22.10.2007 and the notice thereafter was issued to the petitioner on 10.10.2007 by the respondent no.2.

5. The learned advocate for the petitioner has submitted that the delay occurred was on the part of the respondent authority as the authority was waiting for A.G. Report and therefore, there was delay in preferring the appeal before the appellate authority.

6. Considering the facts and circumstances of the case, it is apparent that the impugned order passed by the Deputy Collector, Stamp Duty Valuation, Palanpur is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the

respondent- Authorities. Under these circumstances, the impugned order and the notice passed by the respondent no.2 Deputy Collector, Stamp Duty Valuation, Palanpur are required to be quashed and set aside.

7. As regards the orders passed by the appellate authority rejecting the application/appeal of the petitioner on the technical ground of delay is concerned, the said delay is occurred on the part of authority itself and hence, the same is hereby ordered to be condoned. It also appears while perusing the order of the Deputy Collector, Stamp Duty Valuation, Palanpur that at the time of passing the order the Deputy Collector has only taken into consideration the A.G. Report only and no reasons in detail have been assigned to the petitioner.

8. In the result, the petition is allowed. The impugned orders passed by both the respondent authorities are quashed and set aside. Consequently, the matter is remanded to respondent No.2 for taking fresh decision and for passing a

speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.2 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

9. Rule is made absolute to the aforesaid extent. No order as to costs.

(***M.D.SHAH, J.***)

Amit/-